

Stephanie Young Administratrix Ad
Prosequendum of the Estate of Kelly Ann
McDowell,

Plaintiff,

v.

Frank O'Neill; Ventnor City; John Doe (1-10)
fictitious names; John Doe, Inc. (1-10)
fictitious names

Defendants,

Ventnor City,

Third Party Plaintiff,

v.

Atlanticare Regional Medical Center;
Atlanticare Behavioral Health; Stephanie E.
Snead-Poellnitz, M.D.; Jaclyn Hoffman, MS,
LPC; Diane Goldblum-Graff, APN;
Georgette N. Nammour, LCSW; John/Jane
Doe Healthcare Providers (1-10); John Doe,
Inc. (1-10),

Third Party Defendants

**SUPERIOR COURT OF NEW JERSEY LAW
DIVISION
ATLANTIC COUNTY**

Docket Number
ATL-L-000793-18

SETTLEMENT AGREEMENT and GENERAL RELEASE

The parties to this Negotiated Settlement Agreement and General Release (the "Agreement") are Stephanie Young Administratrix Ad Prosequendum of the Estate of Kelly Ann McDowell (hereinafter "Plaintiff"), and Sergeant Frank O'Neill, Ventnor City, and any and all of their past, present or future employees, officers, directors, principals, agents, independent contractors, lawyers, law firms, representatives, predecessors, successors, assigns and their respective insurer (s) and third party administrators including but not limited to The Atlantic/Cape May County Municipal Joint Insurance Fund, The Municipal Excess Liability Joint Insurance Fund, Qual-Lynx, all of their agents, servants, predecessors, successors, assigns, officers, directors, employees, and their respective insurer(s) representatives; and independent contractors. (hereinafter "Defendants").

1. Plaintiff and Defendants have chosen to enter into the Agreement in order to avoid further proceedings with respect to certain claims that Plaintiff made or could have made against Defendants, directly or indirectly, related to any and all causes of action, claims and/or demands of every type, whether known or unknown, sustained or allegedly sustained, presented or which may

have been presented, by Plaintiff, arising from or in any way connected with any of the matters alleged or which could have been alleged in the civil action filed in the Superior Court of New Jersey Law Division, Atlantic County, Docket Number: ATL-L-000793-18 (the "Litigation").

2. Plaintiff and Defendants have chosen to enter into this Settlement Agreement and General Release in order to avoid further litigation expenses and risks involved due to the claims between or among one another, including but not limited to those filed or which could have been filed in the matter of *Stephanie Young Administratrix Ad Prosequendum of the Estate of Kelly Ann McDowell, v. Frank O'Neill, Ventnor City, John Doe (1-10) fictitious names, John Doe Inc. (1-10) fictitious names, ATL-L-00793-18.*

3. Plaintiff understands and agrees that Defendants deny each and every allegation of wrongdoing made by Plaintiff in the above-captioned matter currently pending in the Superior Court of New Jersey Law Division, Atlantic County, Docket Number: ATL-L-000793-18.

4. Plaintiff and Defendants understand and agree that the making of this Agreement shall not, in any way, be construed or considered to be an admission by any Defendant of guilt, fault, blame, damage or any non-compliance with any federal, state or local law, or of any other wrongdoing whatsoever. Plaintiff and Defendants agree that the making of this Settlement Agreement and General Release shall not, in any way, be construed as an admission or statement against interest by any Defendant or the Plaintiff, nor shall this Settlement Agreement and General Release be admissible into evidence in any subsequent proceeding, except for the enforcement of this Settlement Agreement and General Release. This Settlement Agreement and General Release is entered into solely to avoid the continuing expense and distraction of litigation.

5. In exchange for the promises made by Defendant herein, Plaintiff: agrees to the dismissal, with prejudice, of the Complaint filed in this Litigation against any Defendants not previously dismissed with prejudice; and, unconditionally and irrevocably discharges and releases all Defendants, from any and all claims for fees and costs, and from any and all other claims, known or unknown, that Plaintiff, has or may have had against Defendants as of the date of the full, complete and proper execution of this Agreement, including, from any and all claims arising from or related in any way to the April 17, 2017 death of Kelly McDowell that were asserted or that could have been asserted in the instant litigation.

6. In exchange for the execution of this Agreement by Plaintiff and the dismissal of those claims asserted or that could have been asserted by Plaintiff, Defendants agree to cause to be issued payments as follows:

- A check in the amount of \$430,630.35 payable to D'Amato Law Firm, P.C., counsel for Plaintiff Stephanie Young Administratrix Ad Prosequendum of the Estate of Kelly Ann McDowell.
- A check in the amount of \$569,369.65 payable to Prudential Assigned Settlement Services Corporation for the funding of the future periodic payments as set forth in paragraph 7 and the Qualified Assignment and Release Agreements, attached as Exhibit A.

The foregoing payment is in full satisfaction of any and all liens and claims and for the general release of all claims for personal injury, compensatory damages, attorneys' fees, costs and disbursements, known or unknown, asserted or unasserted including, but not limited to, claims for emotional distress, pain and suffering, legal or equitable relief, all statutory claims, all common law claims, tort claims, contract claims (express, written or implied), and all economic damage claims and for any other harm arising from or related in any way to the April 17, 2017 death of Kelly Ann McDowell.

7. The sum referred to in paragraph 6 shall be paid as follows:

Within sixty (60) days after the date counsel for Defendants receives the fully, completely and properly executed settlement documents, including but not limited to this Agreement, Defendants will pay to Plaintiff's legal counsel the amount noted in Paragraph 6 above by two checks made payable as noted in Paragraph 6 above, and the upfront cash check transmitted to D'Amato Law Firm, P.C. and the check for the funding of the structured settlements transmitted to Settlement Funding Associates, Inc., as broker of record.

The Defendants, through the Municipal Excess Liability Joint Insurance Fund agrees to fund through Exhibit A the following future Periodic Payments:

Payee: Abbigail Sibley

A guaranteed lump sum payment of \$40,000.00 on May 8, 2024.

A guaranteed lump sum payment of \$50,000.00 on May 8, 2025.

A guaranteed lump sum payment of \$40,000.00 on May 8, 2026.

A guaranteed lump sum payment of \$25,000.00 on May 8, 2027.

A guaranteed lump sum payment of \$40,000.00 on May 8, 2032.

A guaranteed lump sum payment of \$231,923.08 on May 8, 2039.

Payee: Warner Sibley

Beginning June 1, 2028, \$30,000.00 payable annually, guaranteed for 4 years, with the last guaranteed payment on June 1, 2031.

Beginning August 30, 2028, \$500.00 payable monthly, guaranteed for 4 years, with the last guaranteed payment on July 30, 2032.

A guaranteed lump sum payment of \$5,000.00 on December 16, 2027.

A guaranteed lump sum payment of \$75,000.00 on December 16, 2034.

A guaranteed lump sum payment of \$75,000.00 on December 16, 2039.

A guaranteed lump sum payment of \$251,492.86 on December 16, 2044.

8. All sums set forth herein constitute damages on account of personal physical injuries and/or physical sickness, arising from an occurrence, within the meaning of Section 104(a)(2) of the Internal Revenue Code of 1986, as amended.

Said periodic payments cannot be accelerated, deferred, increased or decreased by the Plaintiff or any Payee; nor shall the Plaintiff or any Payee have the power to sell or mortgage or

encumber same, or any part thereof, nor anticipate same, or any part thereof, by assignment or otherwise. Transfer of the periodic payments is thus prohibited by the terms of this structured settlement and may otherwise be prohibited or restricted under applicable law.

The parties agree that the Municipal Excess Liability Joint Insurance Fund shall make "qualified assignments" within the meaning of Section 130(c), of the Internal Revenue Code of 1986, as amended, of the Municipal Excess Liability Joint Insurance Fund's liability to make the periodic payments required herein. Such assignments shall be to Prudential Assigned Settlement Services Corporation (the "Assignee") and shall be accepted by the Plaintiff without right of rejection and shall completely release and discharge the Defendants and the Municipal Excess Liability Joint Insurance Fund from such obligations as are assigned to the Assignee. The Plaintiff recognizes that, in the event of such assignments, the Assignee shall be sole obligor with respect to the obligations assigned, and that all other releases that pertain to the liability of the Defendants and the Municipal Excess Liability Joint Insurance Fund shall thereupon become final, irrevocable and absolute.

When the liability to make the Periodic Payments is assigned by way of "qualified assignments":

A. The Periodic Payments from the Assignee cannot be accelerated, deferred, increased or decreased by the Plaintiff or any other Payee;

B. The Assignee's obligation for payment of the Periodic Payments is no greater than the obligation of the person or entity originally liable (whether by suit or agreement) for payment and from whom the obligation was assigned.

C. It is understood that The Prudential Insurance Company of America shall guarantee the performance of Prudential Assigned Settlement Services Corporation.

The Assignee reserves the right to fund its liability to make the Periodic Payments through the purchase of annuity contracts from The Prudential Insurance Company of America (the "Annuity Issuer"). The Assignee shall be the owner of the annuity contracts and shall have all rights of ownership.

The Assignee may direct the Annuity Issuer to mail or electronically transfer payments directly to each Payee. Each Payee shall be responsible for maintaining a current mailing address, bank and mortality information with the Annuity Issuer.

Any remaining guaranteed Periodic Payments to be made after the death of any Payee pursuant to the terms of this Settlement Agreement and General Release shall be made to the Estate of the Payee or to any such person or entity designated by the Payee, at the age of majority. No such designation, nor any revocations thereof, shall be effective unless it is in writing and delivered to the Assignee. The designation must be in a form acceptable to the Assignee before such payments are made.

The obligation assumed by the Assignee to make each Periodic Payment shall be fully discharged upon mailing of a valid check or electronic funds transfer in the amount of such payment on or before the due date to the last address or account on record for the Payee or Beneficiary with the Annuity Issuer. If the Payee or Beneficiary notifies the Assignee that any check or electronic funds transfer was not received, the Assignee shall direct the Annuity Issuer to initiate a stop payment action and, upon confirmation that such check was not previously negotiated or electronic

funds transfer deposited, shall have the Annuity Issuer process a replacement payment.

9. Neither Defendant, counsel for Defendant, counsel for Plaintiff, nor any other party have provided any opinion or position with respect to taxation advice as to Plaintiff with respect to the instant settlement. Plaintiff agrees that he is responsible for all applicable taxes, if any, as a result of the payments set forth in paragraph 6. Plaintiff agrees to indemnify Defendants and hold Defendants harmless for all taxes, penalties and interest, withholding or otherwise, for which Defendants may be found liable as a consequence of having paid monies pursuant to paragraph 6 of this Agreement. Defendants shall notify Plaintiff within thirty (30) days, in writing and via certified mail, return receipt requested, of any IRS notification, assessments or concerns. It is expressly agreed that if any Defendant is required to provide payments for taxes or interest or penalties to any taxing authority, Plaintiff shall reimburse any such Defendant for such payments to any such taxing authority within ten (10) days after any Defendant notifies Plaintiff, in writing, via certified mail, return receipt requested, that he has incurred such liability.

10. Plaintiff agrees to be responsible for any liens including but not limited to any liens for any medical provider or attorney and Plaintiff does agree that in the event any state agency or other authority or person deems any amount to be due from any Defendant with respect to any lien, Plaintiff will indemnify any such Defendant for any sums Defendants may be required to pay to satisfy any such lien or any part thereof; and, Plaintiff further agrees to pay any reasonable and necessary attorney's fees incurred by Defendants in defense of any action brought against Defendants as a result of any such lien provided that Plaintiff will have no such obligation to pay any such reasonable and necessary attorney's fees incurred by Defendants in defense of any such lien related to claims unless Plaintiff is first provided by Defendants with notice of any such lien related claims and Plaintiff is provided 30 days of opportunity to pay or otherwise fully resolve any such lien related claim against Defendants.

11. This Agreement fully supersedes any prior agreements or understandings between the parties. Plaintiff also acknowledges that he has not relied on any representation, promises, or agreements of any kind made in connection with the decision to sign this Agreement, except for those set forth in this Agreement; and, Plaintiff acknowledges he has been satisfied by the representation and services of his attorney.

12. This Agreement may not be modified except upon express written consent of Plaintiff and Defendants wherein specific reference is made to this Agreement.

13. Plaintiff acknowledges and agrees that he has been given a reasonable period of time to consider the terms of this Agreement. Plaintiff further acknowledges that he has reviewed with legal counsel of his choosing, the terms of this Agreement and the consequences of his signing this Agreement. Plaintiff understands and agrees that this Agreement settles, bars, and waives any and all claims that he has or could possibly have against Defendants for anything that has happened up until the execution of this Agreement.

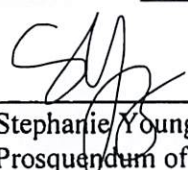
14. This Agreement shall be governed by and conformed in accord with the laws of the State of New Jersey without regard to its conflict of laws provision.

15. Plaintiff agrees to fully execute any and all supplemental documents and take any

additional action(s) that may be necessary or appropriate to give full force and effect to the terms of this Settlement Agreement and General Release.

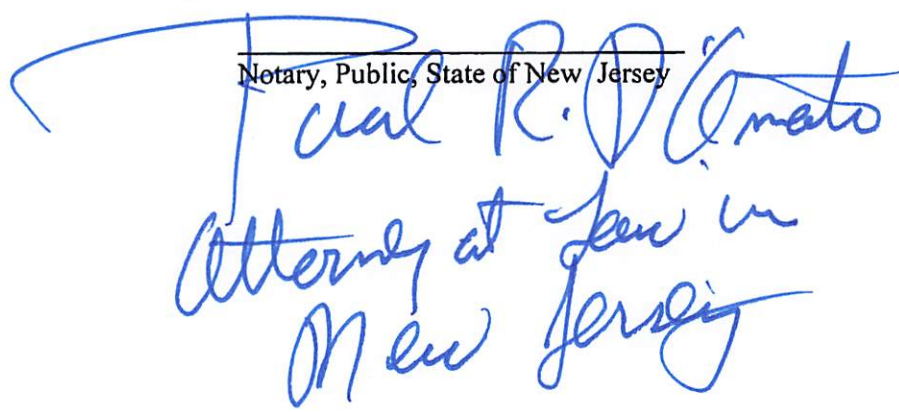
16. In the event that any provision contained in this Agreement is declared invalid, illegal or unenforceable by any court of competent jurisdiction, and cannot be modified to be enforceable, excluding the general release language, such provision shall immediately become null and void, leaving the remainder of this Agreement in full force and effect. Moreover, if any such provision determined to be invalid, illegal or unenforceable can be made valid, legal or enforceable by modification thereof, then the party for whose benefit the provision exists, may make such modification as necessary to make the provision valid, legal and enforceable.

EXECUTION. Executed by the Releasor on this 7th day of July 2023.


Stephanie Young Administratrix Ad
Prosquendum of the Estate of Kelly Ann
McDowell, Releasor and Plaintiff

STATE OF New Jersey :
COUNTY OF Atlantic : SS

I certify that on this 7th date of July Stephanie Young personally came before me Stephanie Young, the person who acknowledged under oath and to my satisfaction, that she is the name persons in the Complaint filed in ATL-L-000793-18 and personally signed this document and delivered this document as her voluntary act and deed.


Notary, Public, State of New Jersey

A. Michael Barker, Esquire
Attorney ID#009511976
BARKER, GELFAND, JAMES & SARVAS
A PROFESSIONAL CORPORATION

Linwood Greene, Suite 12
210 New Road
Linwood, New Jersey 08221
(609) 601-8677

AMBarker@BarkerLawFirm.net

Our File Number: 47620-171

Attorney for Defendant, Ventnor City

Stephanie Young Administratrix Ad
Proseuendum of the estate of Kelly Ann
McDowell,

Plaintiff,

v.

Frank O'Neill, Ventnor City, John Doe
(1-10) Fictitious Names, John Doe, Inc.
(1-10) Fictitious Names,

Defendants.

Ventnor City,

Third Party

Plaintiffs,

v.

AtlantiCare Regional Medical Center;
AtlantiCare Behavioral Health;
Stephanie E. Snead-Poellnitz, M.D.;
Jaclyn Hoffman, MS, LPC; Diane
Goldblum-Graff, APN; Georgette N.
Nammour, LCSW; John/Jane Doe
Healthcare Providers (1-10); John Doe,
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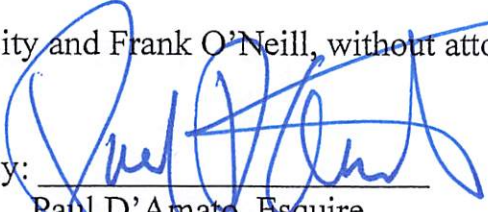
Third party Defendants.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
ATLANTIC COUNTY

Docket Number
ATL-L-000793-18

STIPULATION OF DISMISSAL WITH
PREJUDICE ON BEHALF OF
DEFENDANTS VENTNOR CITY
AND FRANK O'NEILL

It is hereby stipulated and agreed that the Complaint of the Plaintiff, Stephanie Young Administratrix Ad Prosequendum of the Estate of Kelly Ann McDowell and, in her own right is voluntarily dismissed with prejudice against, Defendant, Ventnor City and Frank O'Neill, without attorney's fees or costs.

By: 
Paul D'Amato, Esquire
Attorney for Plaintiff

By: _____
A. Michael Barker, Esquire
Attorney for Defendant Ventnor City

Dated: _____

Dated: _____

By: _____
Tom Reynolds, Esquire
Attorney for Defendant Frank O'Neill

Dated: _____

A. Michael Barker, Esquire
Attorney ID#009511976
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Our File Number: 47620-171
Attorney for Defendant, Ventnor City

Stephanie Young Administratrix Ad
Proseuendum of the estate of Kelly Ann
McDowell,

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v.

Frank O'Neill, Ventnor City, John Doe
(1-10) Fictitious Names, John Doe, Inc.
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Ventnor City,

Third Party Plaintiffs,

v.

AtlantiCare Regional Medical Center;
AtlantiCare Behavioral Health; Stephanie
E. Snead-Poellnitz, M.D.; Jaclyn
Hoffman, MS, LPC; Diane Goldblum-
Graff, APN; Georgette N. Nammour,
LCSW; John/Jane Doe Healthcare
Providers (1-10); John Doe, Inc. (1-10),

Third party Defendants.

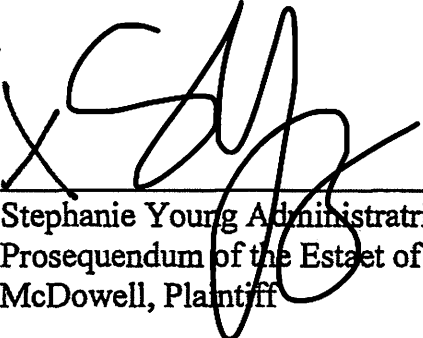
**SUPERIOR COURT OF NEW
JERSEY
LAW DIVISION
ATLANTIC COUNTY**

Docket Number
ATL-L-000793-18

SATISFACTION OF LIENS

In consideration of the settlement payment to be made in this case, the Plaintiff, Stephanie Young Administratrix Ad Prosequendum of the Estate of Kelly Ann McDowell hereby agrees that she will guarantee payment of any and all hospital and medical liens, as well as any and all other liens allegedly related to claims made in this lawsuit including but not limited to any and all subrogation liens, and liens for Social Security, Medicare, Medicaid, hospital bills, Welfare Liens, and child support liens, and she agrees she will indemnify and hold free from any lien expense the Releasees named in the Release executed for the above captioned matter.

Dated: july 7, 2020



Stephanie Young Administratrix Ad
Prosequendum of the Estate of Kelly Ann
McDowell, Plaintiff